

Appln. No. 09/125,841
After Final Amendment dated June 25, 2004
Reply to Final Office Action of February 27, 2004

REMARKS/ARGUMENTS

Reconsideration of the above-identified application respectfully requested.

Amendment of page 1 of the specification is requested to properly claim priority to parent applications. At the Examiner's suggestion the phrase "based on" has been removed and the phrase "is a 371 of" has been substituted.

Claims 29-35 have been amended to replace the term "helper cell" with the accepted art term "T helper cell". The Examiner has drawn Applicants' attention to this modification of the claims seeking to particularly point out the subject matter of the invention.

No new matter is added by virtue of these claim amendments. Moreover, such claim amendments are for clarification purposes by defining claim terms with alternative expressions and definitions. Importantly, Applicants assert that no claims have been narrowed with the meaning of *Festo* (*Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 535 US 722, 112 S.Ct. 1831, 152 L.Ed.2d 944, 62 USPQ2d 1705 (2002)). See also *Interactive Pictures Corp. v. Infinite Pictures Inc.*, Fed Cir., No. 01-1029, December 20, 2001 (addition of the words "transform calculation" was not a narrowing amendment because that addition did nothing more than make express what had been implicit in the claim as originally worded).

Declaration of Triozzi

In Applicants' response filed June 12, 2002, Applicants referred to the affidavit of Dr. Pierre L. Triozzi, which was originally submitted in prosecution of the application Ser. No. 08/943,993, which is a continuation of Ser. No. 08/604,728, to which priority has been claimed. The Examiner declined to consider the Applicants' arguments based on the affidavit of Dr. Triozzi because a copy of the affidavit was not attached. Applicants enclose herewith a copy of the affidavit of Dr. Triozzi and respectfully request that the Examiner reconsider the Applicants' arguments, which are incorporated by reference, in light of the affidavit of Dr. Triozzi.

Rejection based on 35 USC §103(a)

Claims 29-35 stand rejected under 35 U.S.C. § 103(a) as being obvious over Babbitt *et al.* (U.S. Patent No. 5,766,920). Claims 29-35 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ochoa (U.S. Patent No. 5,443,983). In light of

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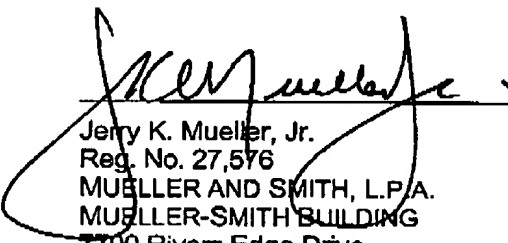
the Declaration of Dr. Triozzi submitted herewith, along with the arguments the Applicants have previously submitted, Applicants respectfully traverse the rejections of the claims and grounds therefor.

A declaration with the signature of one inventor is on file, a declaration with the signature of the other inventor, Dr. Olsen, will be submitted as soon as possible.

In view of the amendments and remarks submitted herewith, allowance of the claims and passage to issue of this application is respectfully requested. Should the Examiner remain unpersuaded, Applicants request that the submitted amendments be entered in order to place the Application in proper form for appeal.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO on June 28, 2004 to fax number 703-872-9306.


Jane Keeney